

**TOWN OF APPLE VALLEY
TOWN COUNCIL/REDEVELOPMENT AGENCY**

**REGULAR MEETING
MINUTES – January 25, 2011**

OPENING CEREMONIES

CALL TO ORDER:

Mayor Nassif called to order the meeting of the Apple Valley Town Council at 6:31 p.m.

Roll call was taken with the following members present:

Roll Call

Present: Boardmember/Council Member Coleman; Boardmember/Council Member Emick; Vice Chair/Mayor Pro Tem Stanton; Chair/Mayor Nassif. Absent: Board Member/Councilman Roelle

CLOSED SESSION

With the consensus of the Town Council, Mayor Nassif announced that Closed Session would be moved to the end of the meeting.

OPENING CEREMONIES

INVOCATION:

The invocation was led by Pastor Royce Bessera, Church for Whosoever

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Mayor Pro Tem Stanton.

Recognition of Rick Piercy – Service on the Apple Valley Fire Protection District Board of Directors
Recognition of Deputies Stan Conway and Chris Crosswhite, Apple Valley Police Department
Certificates of Appreciation – Various Members of Committees/Commissions
Certificates of Appointment - Various Members of Committees/Commissions
Economic Development Presentation – Kenneth J. Henderson, Assistant Town Manager, Economic and Community Development

SPECIAL ANNOUNCEMENTS: None.

PUBLIC COMMENTS

Constance Koch, Apple Valley, expressed concern regarding the flooding that has occurred in the Town of Apple Valley. She also expressed concern regarding the lack of emergency assistance that was available to residents during the flooding.

Hilda Gardeen, Apple Valley, expressed concern regarding the damage to her home during the flooding. She requested assistance from the Town.

Michael Celeano, Apple Valley, expressed concern regarding the amount of funding they spent on their home in the Vineyard Tract and the damages that occurred during the flooding. He stated that he was unable to leave his home during the heavy rains. He respectfully requested the Town Council review this issue.

Sean Lorenzeno, Green and Clean Renewal Energy, commented on his work to bring renewal energy to communities.

Paul Heates, Apple Valley, expressed concern regarding the flooding that occurred in the Vineyards Tract. He requested any type of assistance possible from the Town.

Lestor Milroy, Apple Valley, commented on the placement of "In God we Trust" in the Council Chambers. He recommended "We the People".

APPLE VALLEY CHAMBER OF COMMERCE – BUSINESS RETENTION UPDATE

Jim Gutierrez, Chairman, Apple Valley Chamber of Commerce, stated that the Chamber had a very successful fourth quarter. He commented on the openings of new businesses in the Town of Apple Valley during the fourth quarter and also the classes and mixers hosted by the Chamber.

COUNCILMEMBER COMMENTS AND COMMITTEE/COMMISSION PARTICIPATION

Mayor Pro Tem Stanton thanked the public for coming out in support of issues that are of concern to the community.

Mayor Pro Tem Stanton commented on her attendance at the Mojave Desert Air Quality Management District meeting, a tour of the Victor Valley Transit Authority facility, Habitat Conservation, and Martin Luther King Program. She also commented on the new Apple Valley paper which featured an article on our Police Captain – Captain Bart Belknap. She also thanked the Fire Chief and the Town staff for assisting her and helping her transition into this new position.

Councilmember Emick commented on his attendance at the Police Activities League (PAL) Recognition Dinner and thanked all the volunteers for their hard work. He also commented on his attendance with Mayor Pro Tem Stanton at the League of California Cities new Councilmember workshop. Councilmember Emick stated he will be attending the Hispanic Chamber of Commerce breakfast meetings on a monthly basis.

Councilmember Coleman stated that she attended the opening ceremony of the Victor Valley Transit Authority's new pilot program to run buses from Barstow to the Victor Valley. She commented on her attendance at various meetings including LAFCO and the League of California Cities Environmental Quality Committee meeting. She also commented on her attendance at the Riverside County Economic Development meeting where they introduced a new Southern California Redevelopment Association work group.

Mayor Nassif stated that he attended the US Conference of Mayors in Washington, DC with the Town Manager where discussions were held regarding job creations and education. He stated that workshops were also held regarding the budget process and grants. He stated that he, along with other members of the Town Council will be going back in March to lobby for funding for the Town of

Apple Valley. He also commented on his attendance at the Police Activities League (PAL) Recognition Dinner and a meeting regarding the Habitat Conservation Plan with the County of San Bernardino.

TOWN COUNCIL ANNOUNCEMENTS

Suggested items for next agenda:

Councilmember Coleman commented on the Institute of Local Government. She would like a resolution to come back to the Council to recognize cities for adopting or committing to adopt a climate action plan, and other plans. She commended staff for their hard work on this and recommended they be recognized.

Mayor Pro Tem Stanton requested an item be placed on the next agenda regarding the flooding in the Vineyards Project. Her concern was that this was a newer housing project and the flooding issues should have been addressed before the project was approved.

Mayor Pro Tem Stanton also requested an item be added to a future agenda regarding the Town Hall Annex remodel of the Council office.

Mayor Nassif requested an item be placed on a future agenda regarding redevelopment funds and the impact and cost to the Town should the state be successful in taking those funds.

Time, Date & Place for Next Town Council Regular or Special Meeting:

- A. Special Meeting – Tuesday, February 8, 2011, 4:00 p.m. – Council Chambers
- B. Regular Meeting – Tuesday, February 8, 2011, 6:30 p.m. – Council Chambers

TOWN COUNCIL/REDEVELOPMENT AGENCY CONSENT AGENDA

MOTION

Motion by Mayor Pro Tem Stanton, seconded by Council Member Emick, and unanimously carried, to approve and adopt the Consent Calendar item number 2.

- 2. **Approval of Minutes of the Town Council**
 - A. **Regular Meeting – January 11, 2010**

Recommendation:

Approve the subject minutes as part of the consent agenda.

PUBLIC HEARINGS

- 2. **A Request To Consider An Amendment To Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code By Amending Title 9 "Development Code" Of The Town Of Apple Valley Municipal Code By Amending Section 9.74.040 "Definitions" As It Relates To Kiosk Signs And Amending Chapter 9.74 By Adding Section 9.74.155 "Village District Business Directional Kiosk Signs And Commemorative Banners" As It Relates To Off-Site Kiosk Business Directional Signs And Commemorate Banners On Light Poles Within The Village District**

Mayor Nassif opened the public hearing at 8:07 p.m.

Carol Miller, Senior Planner, presented the staff report as filed with the Town Clerk.

Mayor Pro Tem Stanton expressed concern regarding allowing one area to have a different sign code than other areas in the Town. She believed that all businesses in the Town should be treated equally and that special privileges should not be given to specific areas within the same community.

Larry Cusack, PBID, stated that this program will help provide incentives for new businesses to locate in the Village area.

There being no requests to speak, Mayor Nassif closed the public hearing at 8:19 p.m.

Mayor Pro Tem Stanton reiterated her previous concerns on this issue. She stated that she supported all the businesses in the Town of Apple Valley; she noted for the record that she would prefer that the code be changed townwide.

MOTION

Motion by Councilmember Coleman, seconded by Councilmember Emick, to:

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is EXEMPT from further CEQA review.
2. Find the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 417 in its entirety and read by title only.

Vote: Motion carried 4-0-0-1

Yes: Councilmembers Coleman; Emick; Mayor Pro Tem Stanton; Mayor Nassif. Abstain:

None Absent: Councilmember Roelle.

La Vonda M-Pearson, Town Clerk, read the title to Ordinance No. 417.

MOTION

Motion by Councilmember Coleman , seconded by Councilmember Emick, to:

5. **Introduce** Ordinance No. 417, amending Chapter 9.74 by adding Section 9.74.155 that establishes regulations to allow business directional kiosks and commemorative banner program within the Village Business District.
6. **Direct** staff to file a Notice of Exemption.

Vote: Motion carried 4-0-0-1

Yes: Councilmembers Coleman; Emick; Mayor Pro Tem Stanton; Mayor Nassif. Abstain: None

Absent: Councilmember Roelle.

LEGISLATIVE MATTERS

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

4. Water Rates Update

Dennis Cron, Assistant Town Manager, Municipal Services and Contract Operations, presented the staff report as filed with the Town Clerk.

Discussion ensued amongst the Town Council regarding the cost to the Town to purchase the water and provide the service to the community.

Town Attorney commented on the need to appraise the water value and its assets. He stated that we are allowed to evaluate the condition of the system should the Council desire to take this approach. As part of the appraisal process, the Town is allowed to evaluate the infrastructure prior to making a purchase.

David Crispin, Apple Valley expressed concern regarding the cost of water in Apple Valley. He explained that he took out 50% of his grass and his water rate increased.

T. J. Ford, Apple Valley, commented on his attendance at a meeting with Ranchos Water to discuss the water increases. He explained that they were informed that the increases were due, in part, to the new meters installed.

Russ Johnson, Apple Valley, explained that he removed some of his landscaping due to the high costs of water in Apple Valley. He expressed concern regarding the rates charged by Apple Valley Ranchos.

Jim Phillips, Apple Valley Realtor, expressed concern regarding the difficulty in selling homes if the cost of water is too high for buyers.

Jack Troyce, Apple Valley, expressed concern regarding the absorbent costs for water in Apple Valley.

Bernadette McNulty, Apple Valley, stated that she has reduced her water usage by 50% due to the high cost of water fees for customers.

Cheryl Barker, Apple Valley, commented on construction taken place near her home where water pipes are being installed.

Richard Rorex, Apple Valley, stated that he did not believe the water rates were excessive.

Bob Erickson, Apple Valley, expressed concern regarding the surcharges that Apple Valley Ranchos Water charges its residents.

William Sumborsky, Apple Valley, questioned whether or not the Town could force the sale of Ranchos Water.

Sydney Slater, Apple Valley, expressed concern regarding the high water rates in Apple Valley and the surcharges that are listed on the statement.

David Mueller, Apple Valley, questioned whether or not there are possible water leaks in the water lines which cause the high rates for some residents.

Mayor Nassif commented on many of the statements made by the public during the public comment period of the meeting.

The Council ensued in discussion regarding the public comments that were made and the presentation made by Mr. Cron.

Mr. Cron stated to move forward, Council would have to authorize the Town Attorney to re-engage with Bartle Wells, dust off the study and complete the study, re-calculate the numbers and bring it back to Council.

MOTION

Motion by Mayor Nassif, seconded by Mayor Pro Tem Stanton, to authorize the Town Attorney to re-engage with Bartle Wells, complete the study and bring it back to the Council to review and to authorize the additional legal expenses.

RECESSED MEETING

Mayor Nassif recessed the meeting of the Apple Valley Town Council at 9:50 p.m.

RECONVENED MEETING

Mayor Nassif reconvened the meeting of the Apple Valley Town Council at 10:00 p.m.

5. Discussion Regarding the Placement of Selected Wording in the Town Council Chambers

Mayor Pro Tem Stanton presented the staff report as filed with the Town Clerk.

Chuck Hanson, Apple Valley, stated that he and his wife have waited a long time for this item. He respectfully requested that the Town Council place either "In God we Trust" or "One Nation Under God" in the Town Council Chambers.

Mayor Nassif provided input to the Town Council regarding previous discussion of this item in 2006.

It was the consensus of the Town Council that "One Nation Under God" be placed on the wall behind the Town Council dais in script.

It was the consensus of the Town Council that Agenda Item Number 7 be discussed at this time.

7. Amended and Restated Interim Food and Beverage License Agreement

Councilmember Coleman stated that she had a potential conflict of interest on this item and therefore would recuse herself from the discussions.

COUNCILMEMBER COLEMAN WAS EXCUSED FROM THE DAIS AT 10:15 P.M.

Frank Robinson, Town Manager, commented that last year, the issue of closing the food and beverage item was discussed to save funding.

Dennis Cron, Assistant Town Manager, Municipal Services and Contract Operations, presented the staff report as filed with the Town Clerk.

Tom Gustafson, Landmark Golf Management, commented on the belief that the food and beverage department along with the pro shop will begin to show a profit now that the Town has secured the water rights to the course and committed to closing escrow on the property.

Mayor Pro Tem Stanton asked a series of questions on this issue regarding expenses and liability. She expressed concern regarding the amount of funding spent on this project.

Glen Price, Town Attorney, answered questions from the Council regarding the Town's liability should an incident occur.

Discussion ensued regarding the amount of funding that the Town would be allocating toward this item and the fees associated with this item. Staff reiterated that approval of this item is limited to the food and beverage license agreement and not the operation of the golf course.

MOTION

Motion by Councilmember Emick, seconded by Mayor Nassif, to approve amended agreement and authorize the Town Manager to execute the amended interim food and beverage license agreement.

Vote: Motion carried 3-0-0-2

Yes: Councilmembers Coleman; Emick; Mayor Pro Tem Stanton; Mayor Nassif. Abstain:
None Absent: Councilmembers Coleman; Roelle.

COUNCILMEMBER COLEMAN RETURNED TO THE DAIS AT 10:39 P.M.

6. Community Choice Aggregation Feasibility Study Update

Kenneth J. Henderson, Assistant Town Manager, Economic and Community Development, presented the staff report as filed with the Town Clerk.

MOTION

Motion by Councilmember Coleman, seconded by Councilmember Emick, and unanimously carried, to receive and file the CCA feasibility status report and direct staff to monitor and actively participate with other local governments to pursue reform changes with the CPUC that may make Community Choice Aggregation feasible for the Town in the future.

8. Discussion of Implementing the Use of the E-Verify System to Verify Employment Eligibility at the Town Of Apple Valley

Nikki Salas, Director of Human Resources, presented the staff report as filed with the Town Clerk.

Discussion ensued regarding the number of agencies that use this service.

MOTION

Motion by Mayor Pro Tem Stanton, seconded by Councilmember Emick, to move forward with the implementation of the use of the E-Verify System in the Town of Apple Valley.

Vote: Motion carried 4-0-0-1

Yes: Councilmembers Coleman; Emick; Mayor Pro Tem Stanton; Mayor Nassif. Abstain:

None Absent: Councilmember Roelle.

9. Review of Animal Services Hours of Operation

Mayor Nassif expressed concern regarding the recent newspaper article where a negative statement was made regarding the Apple Valley Animal Shelter. He announced that those statements were incorrect and that a future item would be presented to the Town Council regarding Animal Services which would include hold times for animals in the shelter.

Gina Schwin-Whiteside, Animal Services Manager, presented the staff report as filed with the Town Clerk.

It was the consensus of the Town Council to table this item.

TOWN MANAGER'S COMMENTS & LEGISLATIVE UPDATE

Frank Robinson, Town Manager, commended Gina Whiteside, Animal Services Manager, and her staff for their excellent work. He stated that he will provide the Town Council with an update regarding flooding issues at a future meeting. Mr. Robinson commented on potential grant opportunities. He stated that the 112th Congress is currently working towards adopting a new Resolution that would allow additional funding.

DEPARTMENTAL REPORTS AND BUSINESS:

STAFF REPORTS

CORRESPONDENCE

ADJOURNMENT

MOTION

Motion by Council Member Emick, seconded by Council Member Coleman, and unanimously carried, to adjourn the meeting of the Apple Valley Town Council at 11:27 p.m.

Town Clerk

Mayor